

§ 305.100

given criterion when consecutive findings of noncompliance are made on that criterion.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 40145, Oct. 1, 1985; 50 FR 49392, Dec. 2, 1985, as amended at 51 FR 37732, Oct. 24, 1986; 55 FR 8468, Mar. 8, 1990; 59 FR 66253, Dec. 23, 1994]

§ 305.100 Penalty for failure to have an effective support enforcement program.

(a) If the Secretary finds, on the basis of the results of the audit described in this part, that a State's program does not substantially meet the requirements in title IV-D of the Act, as implemented by chapter III of this title, and the State does not achieve substantial compliance with those requirements identified in the notice within the corrective action period approved by the Secretary under § 305.99(c) of this part and maintain compliance in areas cited in the notice as marginally acceptable under § 305.99(b)(2) of this part, total payments to the State under title IV-A of the Act will be reduced for the period prescribed in paragraph (c) or (d) of this section by:

(1) Not less than one nor more than two percent of such payments for a period beginning in accordance with paragraph (c) or (d) of this section not to exceed the one-year period following the end of the suspension period;

(2) Not less than two nor more than three percent of such payments if the finding is the second consecutive finding made as a result of an audit for a period beginning as of the second one-year period following the suspension period not to exceed one year; or

(3) Not less than three nor more than five percent of such payments if the finding is the third or subsequent consecutive finding as a result of an audit for a period beginning as of the third one-year period following the suspension period.

(b) In the case of a State that has achieved substantial compliance with the unmet criteria identified in the notice and maintained substantial compliance with any marginally-met criteria identified in the notice within the corrective action period approved by

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the Secretary under § 305.99 of this part, the penalty will not be applied.

(c) In the case of a State whose penalty suspension ends because the State is not implementing its corrective action plan, the penalty will be applied as if the suspension had not occurred.

(d) In the case of a State whose penalty suspension ends because the State is implementing its corrective action plan but has failed to achieve substantial compliance with the unmet criteria identified in the notice or maintain substantial compliance with any marginally-met criteria identified in the notice within the corrective action period approved by the Secretary under § 305.99 of this part, the penalty will be effective for any quarter that ends after the expiration of the suspension period until the first quarter throughout which the State IV-D program is in substantial compliance with the requirements of title IV-D of the Act.

(e) A consecutive finding under paragraph (a)(2) or (3) of this section occurs only when the State does not achieve substantial compliance with the same criterion or criteria.

(f) Any reduction required to be made under this section shall be made pursuant to § 205.146(d) of this title.

(g) The reconsideration of penalty imposition provided for by § 205.146(e) of this title shall be applicable to any reduction made pursuant to this section.

[50 FR 40145, Oct. 1, 1985; 50 FR 49392, Dec. 2, 1985; 55 FR 8468, Mar. 8, 1990]

PART 306 [RESERVED]

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

Sec.

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AUTHORITY: 42 U.S.C. 652 through 658, 664, 666, 667, and 1302.

SOURCE: 49 FR 33260, Aug. 22, 1984, unless otherwise noted.

§ 307.0 Scope of this part.

This part implements sections 452(d) and (e), 454(16) and (24), and 455(a)(1)(A) and (B) of the Act which prescribe:

(a) The requirement for computerized support enforcement systems;

(b) The functional requirements that a statewide computerized support enforcement system must meet;

(c) The criteria the Office must determine exist prior to approving an advance planning document (APD);

(d) The requirements and procedures for the submittal of an APD;

(e) The requirement for continuous review of each approved statewide computerized support enforcement system;

(f) The availability of FFP at the 90 percent rate;

(g) The availability of FFP at the applicable matching rate; and

(h) The conditions under which the Office will suspend approval of an APD.

[57 FR 47002, Oct. 14, 1992]

§ 307.1 Definitions.

(a) *Alternative approach to APD requirements* means that the State has developed an APD that does not meet all conditions for APD approval in § 307.15(b) resulting in the need for a waiver under § 307.5.

(b) *Alternative system* means the separate manual and/or automated processes that perform one or more of the required functions separately from the base system and that interfaces with the base system to ensure that the State can meet all requirements for purposes of the audit prescribed in section 403(h) of the Act. These separate processes may involve geographic areas, such as counties; administrative jurisdictions, such as courts; or separate means by which the State meets

particular program requirements, e.g., collection of support for non-AFDC cases.

(c) *Alternative system configuration* means an alternative to a comprehensive computerized support enforcement system. It includes a base system with electronic linkages to an alternative system(s), which is not part of the State's computerized support enforcement project (i.e., not the State's sole system effort), but which is necessary to meet the functional requirements of the statewide, comprehensive computerized support enforcement system under § 307.10.

(d) *Base system* means the hardware, operational software, applications software and electronic linkages in an alternative system configuration which allow the State to monitor, account for and control all support enforcement services and activities under the State plan.

(e) *Certification* means approval of an operational computerized support enforcement system based on a determination that the system has an efficient and effective design and is comprehensive, except where a waiver applies.

(f) *Comprehensive* means that a computerized support enforcement system meets the requirements prescribed in § 307.10 of this part, as further defined in the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States."

(g) *Computerized support enforcement system* means a comprehensive, statewide system or an alternative system configuration which encompasses all political subdivisions within the State and which effectively and efficiently;

(1) Introduces, processes, accounts for and monitors data used by the Child Support Enforcement program in carrying out activities under the State plan; and

(2) Produces utilization and management information about support enforcement services as required by the State IV-D agency and Federal government for program administration and audit purposes.

(h) *Planning* means: (1) The preliminary project activity to determine the requirements necessitating the project, the activities to be undertaken, and

the resources required to complete the project;

(2) The preparation of an APD;

(3) The preparation of a detailed project plan describing when and how the computer system will be designed or transferred and adapted; and

(4) The preparation of a detailed implementation plan describing specific training, testing, and conversion plans to install the computer system.

(i) The following terms are defined at 45 CFR part 95, subpart F, in § 95.605:

“Advance Planning Document”;

“Annually Updated APD”;

“Design” or “System Design”;

“Development”;

“Enhancement”;

“Implementation Advance Planning Document”;

“Initial APD”;

“Installation”;

“Operation”;

“Planning Advance Planning Document”;

“Requirements Analysis”; and

“Software”.

(j) The definitions found in § 301.1 of this chapter are also applicable to this part.

[57 FR 47002, Oct. 14, 1992]

§ 307.5 Mandatory computerized support enforcement systems.

(a) *Basic requirement.* By October 1, 1997, each State must have in effect an operational computerized support enforcement system, which is certified.

(b) *APD requirements.* By October 1, 1991, each State must submit an APD or APD update that meets the conditions set forth in § 307.15 for review and approval by the Secretary.

(c) *Waiver option.* A State may apply for a waiver of any functional requirement in § 307.10 by presenting a plan for an alternative system configuration, or a waiver of any conditions for APD approval in § 307.15(b) by presenting an alternative approach. Waiver requests must be submitted and approved as part of the State’s APD or APD update.

(d) *Conditions for waiver.* The Secretary may grant a State a waiver if:

(1) The State demonstrates that it has an alternative approach to the APD requirements or an alternative system configuration that enables the State, in accordance with part 305 of

this chapter, to be in substantial compliance with the other requirements of this chapter; and either:

(2) The waiver request meets the criteria set forth in section 1115(c) (1), (2) and (3) of the Act; or

(3) The State provides written assurance that steps will be taken to otherwise improve the State’s Child Support Enforcement program.

(e) *APD submittal requirements for alternative system configuration.* APDs submitted by States which include requests for waiver for an alternative system configuration must, in addition to meeting conditions of § 307.15(b):

(1) Describe the State’s base system;

(2) Include a detailed description of the separate automated or manual processes the State plans to use and how they will interface with the base system;

(3) Provide documentation that the alternative system configuration will enable the State to be in substantial compliance with title IV-D of the Act in accordance with section 403(h) of the Act and implementing regulations. In addition, if the State is subject to a Notice under § 305.99 of this part that it did not substantially comply with one or more of the requirements of title IV-D of the Act, at the time a waiver request is submitted, the State must:

(i) Demonstrate that the deficiency is not related to or caused by the performance of the system; or

(ii) Specify the corrective action taken to modify the system if the system contributed to the deficiency.

(f) *APD submittal requirements for alternative approach.* APDs submitted by States which include requests for waiver of conditions for APD approval in § 307.15(b) must demonstrate why meeting the conditions is unnecessary or inappropriate.

(g) *Review of waiver requests.* (1) The Office will review waiver requests to assure that all necessary information is provided, that all processes provide for effective and efficient program operation, and that the conditions for waiver in paragraph (d) of this section are met.

(2) When a waiver is approved, it becomes part of the State’s approved APD. A waiver is subject to the APD suspension provisions in § 307.40.

(3) When a waiver is disapproved, the APD will be disapproved. The APD disapproval is a final administrative decision and is not subject to administrative appeal.

(h) *FFP limitations.* (1) The provisions of §§307.30 and 307.35 apply to requests for FFP for costs of computerized support enforcement systems.

(2) FFP for alternative system configurations is further limited as follows:

(i) FFP is available at the enhanced matching rate for development of the base system and for hardware, operational system software, and electronic linkages with the separate components of an alternative system configuration.

(ii) FFP is available at the applicable matching rate for minor alterations to the separate automated or manual processes that are part of an alternative system configuration and for operating costs including hardware, operational software and applications software of a computerized support enforcement system.

(iii) FFP is not available for developing new systems or making major changes and enhancements to separate automated or manual processes so that alternative system configurations meet conditions for waiver.

[57 FR 47003, Oct. 14, 1992, as amended at 61 FR 67241, Dec. 20, 1996]

§307.10 Functional requirements for computerized support enforcement systems.

At a minimum, each State's computerized support enforcement system established under the title IV-D State plan at §302.85 of this chapter must:

(a) Be planned, designed, developed, installed or enhanced in accordance with an initial and annually updated APD approved under §307.15; and

(b) Control, account for, and monitor all the factors in the support collection and paternity determination processes under the State plan. At a minimum this must include:

(1) Maintaining identifying information such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal zip codes) on individuals against whom support obligations are sought to be established or enforced and on individ-

uals to whom support obligations are owed, and other data as required by the Office;

(2) Periodically verifying the information on individuals referred to in paragraph (b)(1) of this section with Federal, State and local agencies, both intrastate and interstate;

(3) Maintaining data necessary to meet Federal Reporting Requirements on a timely basis as prescribed by the Office;

(4) Maintaining information pertaining to:

(i) Delinquency and enforcement activities;

(ii) Intrastate, interstate and Federal location of absent parents;

(iii) The establishment of paternity; and

(iv) The establishment of support obligations;

(5) Collecting and distributing both intrastate and interstate support payments;

(6) Computing and distributing incentive payments to political subdivisions which share in the cost of funding the program and to other political subdivisions based on efficiency and effectiveness if the State has chosen to pay such incentives;

(7) Maintaining accounts receivable on all amounts owed, collected, and distributed;

(8) Maintaining costs of all services rendered, either directly or by interfacing with State financial management and expenditure information;

(9) Accepting electronic case referrals and update information from the State's title IV-A program and using that information to identify and manage support enforcement cases;

(10) Transmitting information electronically to provide data to the State's AFDC system so that the IV-A agency can determine (and report back to the IV-D system) whether a collection of support causes a change in eligibility for, or the amount of aid under, the AFDC program;

(11) Providing security to prevent unauthorized access to, or use of, the data in the system;

(12) Providing management information on all IV-D cases under the State plan from initial referral or application through collection and enforcement;

(13) Providing electronic data exchange with the State Medicaid system to provide for case referral and the transfer of the medical support information specified in 45 CFR 303.30 and 303.31;

(14) Providing electronic data exchange with the State IV-F program for purposes of assuring that services are furnished in an integrated manner unless the requirement is otherwise met through the exchange conducted under paragraph (b)(9) of this section;

(15) Using automated processes to assist the State in meeting State plan requirements under part 302 of this chapter and Standards for program operations under part 303 of this chapter, including but not limited to:

(i) The automated maintenance and monitoring of accurate records of support payments;

(ii) Providing automated maintenance of case records for purposes of the management and tracking requirements in § 303.2 of this chapter;

(iii) Providing title VI-D case workers with on-line access to automated sources of absent parent employer and wage information maintained by the State when available, by establishing an electronic link or by obtaining an extract of the data base and placing it on-line for access throughout the State;

(iv) Providing locate capability by automatically referring cases electronically to locate sources within the State (such as State motor vehicle department, State department of revenue, and other State agencies), and to the Federal Parent Locator Service and utilizing electronic linkages to receive return locate information and place the information on-line to title IV-D case workers throughout the State;

(v) Providing capability for electronic funds transfer for purposes of income withholding and interstate collections;

(vi) Integrating all processing of interstate cases with the computerized support enforcement system, including the central registry; and

(16) Providing automated processes to enable the Office to monitor State operations and assess program per-

formance through the audit conducted under section 452(a) of the Act.

[57 FR 47003, Oct. 14, 1992]

§ 307.15 Approval of advance planning documents for computerized support enforcement systems.

(a) *Approval of an APD.* The Office shall not approve the APD and annually updated APD unless the document, when implemented, will carry out the requirements of § 307.10 of this part. Conditions for APD approval are specified in this section.

(b) *Conditions for initial approval.* In order to be approvable, an APD for a statewide computerized support enforcement system described under § 307.10 must meet the following requirements:

(1) The APD must represent the sole systems effort being undertaken by the State in accordance with § 307.10. If the State is requesting a waiver under § 302.85 of this chapter, the APD must specify the conditions for which waiver is requested;

(2) The APD must specify how the objectives of the computerized support enforcement system in § 307.10 will be carried out throughout the State; this includes a projection of how the proposed system will meet the functional requirements of § 307.10 and how the single State system will encompass all political subdivisions in the State by October 1, 1997;

(3) The APD must assure the feasibility of the proposed effort and provide for the conduct of a requirements analysis study which address all system components within the State and includes consideration of the program mission, functions, organization, services and constraints related to the computerized support enforcement system;

(4) The APD must indicate how the results of the requirements analysis study will be incorporated into the proposed system design, development, installation or enhancement;

(5) The APD must contain a description of each component within the proposed computerized support enforcement system as required by § 307.10 and must describe information flows, input data, and output reports and uses;

(6) The APD must describe the security requirements to be employed in the proposed computerized support enforcement system;

(7) The APD must describe the intrastate and interstate interfaces set forth in §307.10 to be employed in the proposed computerized support enforcement system;

(8) The APD must describe the projected resource requirements for staff, hardware, and other needs and the resources available or expected to be available to meet the requirements;

(9) The APD must contain a proposed budget including a description of estimated expenditures by category and amount for:

(i) Items that are eligible for Federal funding at the 90 percent rate; and

(ii) Items related to developing and operating the system that are eligible for Federal funding at the applicable matching rate;

(10) The APD must contain an implementation plan and backup procedures to handle possible failures in system planning, design, development, installation or enhancement;

(11) The APD must describe each system considered during planning including the advantages of selecting the proposed solution. If a transfer system is not selected as the proposed solution, a transfer system must be among those systems considered. If a system that is already in place in the State could be enhanced to meet the requirements for a computerized support enforcement system, that system must be among the solutions considered;

(12) The APD must contain a cost benefit analysis of the proposed computerized support enforcement system and all alternatives considered that describes the proposed improvements to the IV-D program in both qualitative and quantitative terms;

(13) The APD must specify the basis for determining direct and indirect costs of the computerized support enforcement system during development and operation, including the methodology for determining costs of planning, design, development, installation or enhancement that are eligible for 90 percent Federal funding versus costs of development and operations that are

eligible for Federal funding at the applicable matching rate;

(14) The APD must contain a statement indicating the period of time the State expects to use the proposed computerized support enforcement system; and

(15) The APD must include any waiver requested in accordance with §307.5 of this chapter.

(c) *Conditions for approval of annual update.* The APD for a computerized support enforcement system described under §307.10 must be updated annually. In order to be approvable, the annual update of an APD for a computerized support enforcement system described under §307.10 must meet only those requirements of paragraph (b) of this section that are prescribed by instructions issued by the Office.

(Approved by the Office of Management and Budget under control number 0960-0343)

[49 FR 33260, Aug. 22, 1984, as amended at 51 FR 37732, Oct. 24, 1986; 55 FR 4379, Feb. 7, 1990; 57 FR 47004, Oct. 14, 1992; 61 FR 67241, Dec. 20, 1996]

§ 307.20 Submittal of advance planning documents for computerized support enforcement systems.

The State IV-D agency must submit an APD for a computerized support enforcement system, approved and signed by the State IV-D Director and the appropriate State official, in accordance with the submission process prescribed in 45 CFR part 95, subpart F.

[55 FR 4379, Feb. 7, 1990, as amended at 57 FR 47005, Oct. 14, 1992]

§ 307.25 Review and certification of computerized support enforcement systems.

The Office will review, assess and inspect the planning, design, development, installation, enhancement and operation of computerized support enforcement systems developed under §307.10 to determine the extent to which such systems:

(a) Meet the requirements found in §307.15; and

(b) Can be certified as meeting the requirements described in §307.10 and

in the OCSE guideline entitled “Automated Systems for Child Support Enforcement: A Guide for States”.

[57 FR 47005, Oct. 14, 1992]

§ 307.30 Federal financial participation at the 90 percent rate for state-wide computerized support enforcement systems.

(a) *Conditions that must be met for FFP.* Until September 30, 1995, Federal financial participation is available at the 90 percent rate in expenditures for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in §§ 307.5 and 307.10 if:

(1) The Office has approved an APD in accordance with § 307.15 of this part;

(2) The system meets the requirements specified in § 307.10;

(3) The Office determines that the expenditures incurred are consistent with the approved APD;

(4) The Office determines that the computerized support enforcement system or alternative system configuration is designed effectively and efficiently and will improve the management and administration of the State IV-D plan;

(5) The State IV-D agency agrees in writing to use the system for a period of time which is consistent with the APD approved by the Office; and

(6) The State or local government has ownership rights in software, software modifications and associated documentation that is designed, developed, installed, or enhanced with 90 percent FFP under this section subject to the Department of Health and Human Services license specified in paragraph (c) of this section.

(b) *Reimbursement of hardware and proprietary software.* (1) Until September 30, 1995, FFP at the 90 percent rate is available for expenditures for the rental or purchase of hardware for the planning, design, development, installation, enhancement or operation of a computerized support enforcement system as described in § 307.10.

(2) Until September 30, 1995, FFP at the 90 percent rate is available for expenditures for the rental or purchase of proprietary operating/vendor software

necessary for the operation of hardware during the planning, design, development, installation, enhancement or operation of a computerized support enforcement system in accordance with the OSCE guideline entitled “Automated Systems for Child Support Enforcement: A Guide for States.” FFP at the 90 percent rate is not available for proprietary application software developed specifically for a computerized support enforcement system. (See § 307.35 regarding reimbursement at the applicable matching rate.)

(c) *HHS rights to software.* The Department of Health and Human Services reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal government purposes, software, software modifications, and documentation developed under § 307.10. This license would permit the Department to authorize the use of software, software modifications and documentation developed under § 307.10 in another project or activity funded by the Federal government.

(d) *Consequences of suspension of the APD.* If the Office suspends approval of an APD in accordance with § 307.40 of this part during the planning design, development, installation, enhancement or operation of the system:

(1) The Office shall disallow FFP as of the date the State failed to comply substantially with the approved APD; and

(2) FFP at the 90 and applicable matching rates is not available in any expenditures incurred under the APD after the date of the suspension until the date the Office determines that the State has taken the actions specified in the notice of suspension described in § 307.40(a)(2) of this part. The Office will notify the State in writing upon making such a determination. (See § 307.35(b) regarding reimbursement for disallowed expenditures under part 95, subpart F of this title.)

[49 FR 33260, Aug. 22, 1984, as amended at 50 FR 19657, May 9, 1985; 55 FR 4379, Feb. 7, 1990; 57 FR 47005, Oct. 14, 1992]

§ 307.35 Federal financial participation at the applicable matching rate for computerized support enforcement systems.

Federal financial participation at the applicable matching rate is available only in computerized support enforcement systems expenditures for:

(a) The operation of a system that meets the requirements specified in § 307.10 if the conditions for APD approval in §§ 307.5 and 307.15 are met; or

(b) Systems approved in accordance with part 95, subpart F of this title. This may include expenditures for a system which were disallowed by the Office because the system failed to comply substantially with an APD approved under § 307.15.

[49 FR 33260, Aug. 22, 1984, as amended at 50 FR 19658, May 9, 1985; 57 FR 47005, Oct. 14, 1992]

§ 307.40 Suspension of approval of advance planning documents for computerized support enforcement systems.

(a) *Suspension of approval.* (1) The Office will suspend approval of the APD

for a computerized support enforcement system approved and developed under § 307.10 as of the date that the system ceases to comply substantially with the criteria, requirements, and other provisions in the APD, including conditions in § 307.15(b) and the requirements in § 307.10 of this part covered under a waiver granted in accordance with § 307.5. Federal funding will be disallowed as described in § 307.30(d).

(b) *Duration of suspension.* The suspension of approval of an APD under paragraph (a) shall remain in effect until the Office determines that actions required for Federal funding in the future, as specified in the notice of suspension, have been taken and the Office so notifies the State.

[49 FR 33260, Aug. 22, 1984, as amended at 57 FR 47005, Oct. 14, 1992]

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